IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 7899 of 2004

Between:

M/s Jagadamba Pearls Jewellers,
Rep. by its Partner Sri Prahlad Agarwal,
S/o Sri Chaturbhug, age 51 yrs, occ: Business.
Having its office at Gupta Estate, 5-9-58,
Basheerbagh, Htyderabad.

..... PETITIONER

AND

1 Municipal Corporation of Hyderabad,
Rep. by its Commissioner and Special Officer,
Tank Bund, Hyderabad.
2 The Additional Commissioner (Advt.),
Advertisement Section, Tank Bund Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order, issue a Writ or any other direction in the nature of writ, more particularly writ of mandamus declaring the demand notice No. 222/C6/816/ADVT/MCH/2003-2004 dated 19-3-2004, issued by the respondents to the petitioner as illegal, arbitrary, high-handed, violative of Article 14, 19 (1) (g) of the Constitution of India and issue any other Writ or direction in the interest of justice.

Counsel for the Petitioner: MR.SHYAM S.AGRAWAL

Counsel for the Respondents: MR.RAMA RAO GANTA, Standing Counsel for MCH

The Court at the stage of admission made the following Order:

Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the Municipal Corporation of Hyderabad (MCH). Both the learned counsel have no objection to dispose of the writ petition at the stage of admission.

The petitioner, who is carrying on pearls business at Gupta Estate, Basheerbagh, Hyderabad, is displaying his business with neon lights and glow sign, which are helpful to the customers to identify the shop during nights. In view of the same, the second respondent-Additional Commissioner (Advertisement), MCH, Hyderabad, issued the impugned notice dated 19-03-2004 to the petitioner stating that the Neon/Glow sign/Backlit boards are displayed without obtaining prior written permission from the first respondent-Commissioner, MCH, Hyderabad, in violation of the provisions of the Hyderabad Municipal Corporation Act, 1955 (for short "the Act") and called upon to pay signage fee for the year 2003-2004 for such displaying the sign boards with neon lights. Questioning the same, the present writ petition is filed.

The learned counsel for the petitioner relied on the proviso to clause (b) of sub-section 4 of Section 421 of the Act. As per said proviso, the expression "illuminated advertisement" shall not include an illuminated display of goods if such display is of goods clearly bearing labels showing the name of the article or of its manufacturer or of both, and is made by lighting which is not, in the opinion of the Commissioner, more than is necessary to make the goods and labels visible at night.

This Court in ***ASIAN PAINTS INDIA LIMITED, MUMBAI*** v. ***ADDITIONAL COMMISSIONER (FINANCE) MUNICIPAL***

CORPORATION, HYDERABAD[1] considered the said proviso in para "9" and observed that the exemption granted by it shall not extend to any of the categories of advertisement mentioned in the proviso to sub-section (1) of Section 421 of the Act.

In view of the same, the petitioner can approach the respondent and submit his explanation to the impugned notice claiming exemption under Section 421(4)(b) of the Act. Since what goods are displayed on the sign board is a disputed question of fact, the petitioner can submit his explanation to the impugned notice dated 19-03-2004 and satisfy the authorities that the goods displayed by the petitioner are exempted by virtue of clause (b) of sub-section (4) of Section 421 of the Act and therefore, they do not attract for payment of signage fee. On petitioner's giving such an explanation within a period of two weeks from today, the second respondent shall provide an opportunity of hearing to the petitioner and pass appropriate orders. Till such an order is passed, no further action can be taken pursuant to the impugned notice.

The writ petition is accordingly disposed of. No costs.

15th SEPTEMBER, 2004.

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To

1 The Commissioner and Special Officer,
Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.
2 The Additional Commissioner (Advt.),
Advertisement Section,
Tank Bund Road, Hyderabad.
3 Two CD copies.

[1] 2000(3) ALT 658